

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2019-281-S

IN RE:)	RESPONSE OF INTERVENOR LISA
)	LEVINE TO PETITIONER PALMETTO
Application of Palmetto Utilities, Inc. for)	UTILITIES , INC. MOTION FOR
adjustment of rates and charges for, and)	PREHEARING CONFERENCE
modification to certain terms and conditions)	
related to the provisions of sewer service.)	
)	
)	

Intervenor Lisa Levine (Intervenor) hereby requests the Commission to deny the Motion of Petitioner Palmetto Utilities, Inc. (PUI) for a Prehearing Conference. The Motion is late in the calendar for changing Commission rules and procedures and is unnecessary. That the Hearing would be virtual had been suggested by PUI for witnesses last month and was known for quite some time that the Commission would issue a directive for all hearings to be done virtually. The Hearing is just 20 days away from the date of the Motion, filed late in the day. The Motion requests such a hearing not be held until after June 18, 2020, just nine days or less before the scheduled hearing date of June 30, 2020. Intervenor avers that she has relied on current procedures in her management of intervention and states she does not waive any rights and procedures.

PUIs proposed matters and Intervenor's comments follow seriatim:

- a. Intervenor contends that extant rules and procedures are sufficient to manage most of the matters PUI proposes for such a hearing. Intervenor relied on the time lines and the virtual character of the Hearing for her decision to file a Pre Hearing brief instead of filing testimony. In her Response to Petitioner's Motion to strike her and her brief, Intervenor stated she would not provide testimony but instead rely on her brief. She understood the Commission would follow the rules regarding testimony and her cross-examination of witnesses. Intervenor specifically does not waive her right to cross examine witnesses. With her not testifying, this becomes a major part of her ability to demonstrate to the Commission the weakness of the Petition.
- b. Intervenor contends that actual participation is substantially less expensive and easier than transporting and having a witness at the hearing waiting to testify in person. Furthermore, testimony via verification limits cross examination of a witness testifying personally without his lawyer preparing answers. Intervenor avers that council has prepared PUIs witnesses, if not in total at least by reviewing and revising the testimony. Witness in-person testimony is what hearings and trials are designed for—to see and hear the witness personally and hear the witness stand up to clarifications of statements alleged or made.
- c. PUI requests the requested meeting discuss how documents used to impeach witnesses be managed at the virtual Commission Hearing. PUIs tactic is unclear in this regard. It wants no cross examination to impeach witnesses yet wants to use documents to impeach a witness. Intervenor suggests that cross examination could include reference to documents, should the cross examiner so desire which could

- include the cross examiner reading from the document, pointing out matters requiring clarification, and then asking for the document's admittance to the record if considered appropriate. If the Commission agrees to admission of the document, then the requestor could scan and send it to the Commission Clerk. Not a problem and easily managed by the Commission Clerk.
- d. The matter regarding the Office of Regulatory Staff amendment is a matter that has been examined and is ripe for a decision. Further discussion and argument of this matters is a dilatory tactic by PUI and unnecessary.
 - e. Intervenor has Responded to PUIs Motion to strike her as Intervenor and PUI answered actually examining each issue Intervenor included in her Pre Hearing Brief. Intervenor has agreed to use such brief in lieu of testimony making this issue moot even should PUIs Motion be denied.
 - f. Regarding the revised pre-filed testimonies, PUI has filed motions and answers are filed. Intervenor suggests that the normal administrative quasi-judicial litigation undergoing between the parties is sufficient to address these matters. The parties should follow the rules and limitations that PUI so passionately demands of Intervenor.
 - g. Finally, regarding settlement, Intervenor is always open to settlement. She has received no meaningful settlement offer but always is open. Her contact information is below. Having a hearing without an opportunity to carefully consider some proposed settlement at this late hour of the process undercuts any ability for agreement. This is not the normal civil or criminal case where judgment amounts are

being judged or in the criminal area where the level of crime and sentencing are being determined. It involves an entire community and many complicated issues. Petitioner has been granted a monopoly and the community is concerned. It is not just Intervenor in this regard. Besides, settlement does not require a formal meeting. If Petitioner has something in mind, their failure to bring it to the table now, undercuts PUIs integrity at really wanting to settle.

Intervenor considers such a meeting requested by PUI a dilatory tactic, designed only to favor the prosecution of its petition to the Commission. Intervenor avers the meeting is unnecessary, especially as a formal matter governed by the Commission Hearing officer. Intervenor does not waive any of its rights to current Commission hearing safeguards, rules, regulations, or procedures. Intervenor notes that PUI relied heavily and passionately on all such rights to include rights mentioned in the S.C. Constitution in its attempts by its Motion to dismiss Intervenor from this action. Now it wants to waive these rights since it would make it easier to present its case. It includes several matters that currently are clear and easily managed in a virtual setting.

Finally, Intervenor states she stands ready for any informal meeting at a reasonable time and place with the parties to these proceedings should any party desire to discuss any of the foregoing matters.

ACCORDINGLY, Intervenor respectfully requests the Commission to deny PUIs Motion for a Prehearing Conference in its entirety and for such other and further relief that the Commission may consider as just and lawful.

Respectfully Submitted,

s/Lisa Levine

Lisa Levine

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June 11, 2020

Blythewood, South Carolina